



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Kevin A. Layne) Examiner: Elaine L. Gort
Serial No.: 09/435198) Group Art Unit: 3627
Filed: November 05, 1999) Docket: 1148.002US1
For: COLLECTION AGENCY)
DATA ACCESS METHOD)

APPELLANT'S BRIEF ON APPEAL

Mail Stop Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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This Appeal Brief is presented in support of the Notice of Appeal to the Board of Patent Appeals and Interferences, filed on December 18, 2003, from the Final Rejection of claims 1-21 of the above-identified application, as set forth in the Final Office Action mailed on December 18, 2003. The postcard indicating receipt by the U.S.P.T.O. was dated December 22, 2003. Thus, the filing of this Appeal Brief on today's date of May 24 is believed to require only a three month extension of time pursuant to M.P.E.P. § 1206 and 37 C.F.R. 1.7 (May 22, 2004 falls on a Saturday). An extension of time is submitted herewith for three months with authority to charge Deposit Account 19-0743.

This Appeal Brief is filed in triplicate. The Commissioner of Patents and Trademarks is hereby authorized to charge Deposit Account No. 19-0743 in the amount of \$ 165.00 which represents the requisite fee set forth in 37 C.F.R. § 1.17. Appellant respectfully requests the consideration and reversal by the Board of Patent Appeals and Interferences of the Examiner's rejections of pending claims.

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APPELLANTS' BRIEF ON APPEAL

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1. REAL PARTY IN INTEREST

The real party in interest of the above-captioned patent application is the assignee, COMMERCIAL RECOVERY CORPORATION.

2. RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to Appellant which will have a bearing on the Board's decision in the present appeal.

3. STATUS OF THE CLAIMS

The present application was filed on November 5, 1999 with claims 1-20. Claims 1-4 and 11-12 were amended following the non-final Office Action mailed June 6, 2001. Claims 1 and 3-4 were amended following the Final Office Action mailed April 11, 2002 upon the filing of an RCE dated September 11, 2002. Claim 1 was amended and claim 21 was added following the non-final Office Action mailed December 2, 2002. A Final Office Action dated December 23, 2003, (hereinafter "the Final Office Action") was mailed before the Notice of Appeal was filed by Appellant.

The finally rejected claims 1-21 are the subject of the present appeal. However, as detailed below, claim 10 is presently amended to correct for a lack of antecedent basis.

4. STATUS OF AMENDMENTS

Claim 10 is presently amended to correct for a lack of antecedent basis. Although the Final Office Action did not raise an objection to this claim, the amendment is made to ensure the clarity of the claim on appeal. Entry of this amendment is respectfully

requested. Should entry of this amendment be denied, consideration of the claim in its previously pending form is respectfully requested.

No other amendments have been made subsequent to the Final Office Action dated December 23, 2003.

5. SUMMARY OF THE INVENTIVE SUBJECT MATTER

Some aspects of the present inventive subject matter include, but are not limited to, a method for allowing selective and remote access by a client of a collection agency to information about debt collection activity by the collection agency. See specification, beginning at page 6, line 16, and Figures 1-6. In the method of claim 1, each client may have one or more debtors which the collection agency is collecting from. The method employs a defined access scheme to limit access to an authenticated remote user who is a client representative. Thus, a number of clients of the collection agency can individually, privately and remotely access collection information using a defined access scheme, the collection information including remote review and reporting of data items concerning collections by the collection agency.

This method includes storing a plurality of account data items in a database J2, each data item being associated with an account belonging to the client of the collection agency, the plurality of data items including information relating to debt owed to the client by one or more debtors. An example embodiment of this data is shown in FIG. 6 and described in detail throughout the application, more specifically beginning at page 10, line 6. The subject matter of claim 1 further includes processing database J2 access requests with a network server from a user process controlled by a remote user RC and processing credentials to authenticate the remote user as a client representative C2.

This summary does not provide an exhaustive or exclusive view of the present subject matter, and Appellant refers to the appended claims and their legal equivalents for a complete statement of the invention.

6. ISSUES PRESENTED FOR REVIEW

1. Were claims 1-21 properly rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith (U.S. Patent 5,822,400, hereinafter “Smith”) in view of Goode et al. (U.S. Patent 6,163,272, hereinafter “Goode”) and the Blenheim Debt Agency publication (hereinafter “Blenheim”)?

7. GROUPING OF CLAIMS

For the rejections under 35 USC 103(a), claims 1-21 each claim stands and falls independently of the other claims. Each of claims 1-21 not only contains elements not embodied in the other claims, but the combination of elements in each of the claims provide independent grounds for patentability, for at least the reasons herein.

8. ARGUMENT

A) 35 USC § 103(a) Rejections

1) Applicable Law

The Examiner has the burden under 35 U.S.C. § 103 to establish a *prima facie* case of obviousness. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). As part of establishing a *prima facie* case of obviousness, the Examiner must show that some objective teaching in the prior art or some knowledge generally available to one of ordinary skill in the art would lead an individual to combine the relevant teaching of the references. *Id.*

The court in *Fine* stated that:

Obviousness is tested by "what the combined teaching of the references would have suggested to those of ordinary skill in the art." *In re Keller*, 642 F.2d 413, 425, 208 USPQ 871, 878 (CCPA 1981)). But it

"cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination." *ACS Hosp. Sys.*, 732 F.2d at 1577, 221 USPQ at 933. And "teachings of references can be combined *only* if there is some suggestion or incentive to do so."

Id. (emphasis in original).

The M.P.E.P. adopts this line of reasoning, stating that

"To establish a *prima facie* case of obviousness, three base criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Appellant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991))". M.P.E.P. § 2142.

The test for obviousness under § 103 must take into consideration the invention as a whole; that is, one must consider the particular problem solved by the combination of elements that define the invention. *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1985). The Examiner must, as one of the inquiries pertinent to any obviousness inquiry under 35 U.S.C. § 103, recognize and consider not only the similarities but also the critical differences between the claimed invention and the prior art. *In re Bond*, 910 F.2d 831, 834, 15 USPQ2d 1566, 1568 (Fed. Cir. 1990), *reh'g denied*, 1990 U.S. App. LEXIS 19971 (Fed. Cir. 1990). Further, the Office Action must provide specific, objective evidence of record for a finding of a suggestion or motivation to combine reference teachings and must explain the reasoning by which the evidence is deemed to support such a finding. *In re Sang Su Lee*, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002). Further yet, the fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990); MPEP § 2143.01. Finally, the Examiner must avoid hindsight. *In re Bond* at 834.

2) Discussion of the rejection of claims 1-21 under 35 U.S.C. § 103(a) as being unpatentable over Smith (U.S. Patent 5,822,400 “Smith”) in view of Goode et al. (U.S. Patent 6,163,272 “Goode”) and Blenheim Debt Agency (“Blenheim”).

Overview

The present subject matter is directed to various embodiments of methods for allowing a client of a collection agency remote and selective access to data concerning collection accounts the client has placed with the collection agency. Appellant respectfully traverses the combination of Smith in view of Goode and Blenheim because the Final Office Action has not made a proper *prima facie* showing of obviousness. Appellant respectfully submits that the Final Office Action fails to provide a proper motivation to combine the references, the references teach away from the proposed combination, and the combination of the references fails to teach or suggest all of the claim elements. Additionally, Appellant respectfully submits that the rejection of the claims is procedurally deficient on its face for relating to claim language that was previously amended. Appellant respectfully requests that the Board reverse the rejections and allow the pending claims.

a) Claim 1

Appellant respectfully traverses the rejection of claim 1 because the Final Office Action has not made out a proper *prima facie* case of obviousness.

The Final Office Action relies on Smith for providing all of the elements of claim 1, “except for credential processing to authenticate the identity of the client representative with a plurality of access tiers and is silent regarding client access to updated account information.” The Final Office Action then relies upon Goode to disclose:

“that it is known in the art to provide an authentication system which processes credentials of users to verify and control access to different levels of information for security purposes and Blenheim Debt Agency discloses that it is known in the art of debt collection for the client (finance companies and retailers) to access their debtor’s collection information over the Internet because it is cheaper and inexpensive.”

The Final Office Action concludes:

“It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the method of Smith with the access by the client as taught by Blenheim Debt Agency and plurality of access tiers with id authentication of Goode et al., in order to allow the client to track the collection agents progress quickly and inexpensively and to check the status of their debtor’s accounts while controlling access to information for security purposes.” Final Office Action, Para. 2, page 3.

Appellant does not admit these assertions. Indeed, it is respectfully submitted that the combination is improper, since Smith relates to a call record scheduling system which prioritizes call records that are downloaded to a call center record manager which preliminarily filters the records to select only certain records for a call campaign. Smith, Abstract. Thus, it is respectfully submitted that Smith relates to preprocessed call records and therefore does not require, nor would it benefit from, the access tiers with ID authentication of Goode. Additionally, the Smith calling system uses host computer 16 or workstation 18 to do the filtering according to Smith, col. 4, lines 1-12. And Smith col. 5, lines 13-17 states: “During a call campaign or upon a completion of a campaign, call records 28 are uploaded over signal path 40 back to host 16. If historical data 35 is stored with call records 28, the updated historical data is also uploaded.”

Thus, Smith makes no mention of selective access by a client, nor does it relate to a defined access scheme. It is believed that Smith does not require such control of information, since the calling information is presorted and processed by the calling system. Furthermore, no defined access scheme is contemplated by Smith.

Goode relates to a method and apparatus for managing personal identification numbers of customers as well as customer authorization access to an interactive information distribution system. Thus the subject matter of Goode is not believed to be analogous to the calling system of Smith.

The Blenheim Debt Agency reference seems to inadequately describe any system. However, as best understood, the Blenheim Debt Agency system relates to checking of “consumer credit card details.” As such, it is respectfully submitted that Blenheim Debt Agency is directed to a system that provides access of a database of individual debtor accounts to several clients, rather than restricting the access. Furthermore, the clients do not necessarily have a relation to the debtors whatsoever. As such, it is believed that Blenheim teaches away from the present subject matter. Furthermore, since it is

nonanalogous to both Goode and to the instant subject matter, it is believed an improper combination.

Thus, the combination of Goode and Blenheim to Smith is both unlikely, teaches away from the instant subject matter, and includes nonanalogous art.

Further, Appellant respectfully traverses the use of Blenheim as a reference because Blenheim appears to be a short news story and does not contain substantive technical information. Blenheim does not enable one of skill in the art to practice any form of technology, let alone the present inventive subject matter with any expectation of success. Appellant respectfully submits that Blenheim is nonenabling and therefore an improper reference for an obviousness rejection.

The combination of references is legally insufficient, since even if the references can be combined or modified, that does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990); MPEP § 2143.01. The Office Action must provide specific, objective evidence of record for a finding of a suggestion or motivation to combine reference teachings and must explain the reasoning by which the evidence is deemed to support such a finding. *In re Sang Su Lee*, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002). Appellant respectfully submits that the Final Office Action has not made a proper combination of references. For example, the Final Office Action at page 3, as recited above, states:

“It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the method of Smith with the access by the client as taught by Blenheim Debt Agency and plurality of access tiers with id authentication of Goode et al., in order to allow the client to track the collection agents progress quickly and inexpensively and to check the status of their debtor’s accounts while controlling access to information for security purposes.”

In light of the very different nature of each reference, the Final Office Action fails to provide specific, objective evidence of record for finding of this suggestion or motivation to combine the reference teachings as required. *In re Sang Su Lee*, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002).

The references, when combined, must teach or suggest all of the claim elements. M.P.E.P. § 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991)).

Claim 1 recites in part, “processing database access requests with a network server from a user process controlled by a remote user. . . .”

In contrast, Smith provides a call record scheduling system, Goode provides a video-on-demand distribution system, and Blenheim appears to describe a credit bureau reporting system. The references do not teach or suggest processing database access requests as recited in claim 1 because Smith, Goode, and Blenheim fail to teach or suggest remote users having remote access to the data of the system. The references further fail to teach “database access requests . . . from a user process controlled by a remote user.” The references are deficient as to these limitations because they not only fail to contemplate a remoter user, the references further fail to contemplate a user process as described in Appellant’s description at page 2, line 16 – page 5, line 8, among other places.

Additionally, Appellant respectfully submits that the rejection of claim 1 is procedurally deficient for relating to claim language that is different than claim 1 as finally rejected and as currently stands on appeal. For instance, the rejection fails to relate to, among other things, “debt owed to the client” and “reporting of the account data items.”

Appellant respectfully submits that the rejection is procedurally deficient for failing to reject all of the claim limitations as recited by claim 1. Thus, Appellant is unable to ascertain the specific grounds for rejection or make an informed decision for arguing against or amending around the rejection.

Consequently, Appellant respectfully submits that the Final Office Action fails to make out a proper *prima facie* case of obviousness because the combination of Smith in view of Goode and Blenheim is not proper for at least the foregoing reasons. Accordingly, Appellant respectfully submits that claim 1 is patentable over the combination of Smith in view of Goode and Blenheim and respectfully requests reversal of the rejection by the Board.

b) Claim 3

Claim 3 relates to a method in accordance with both claims 1 and 2 and further providing ability for accessing data stored in the database with a database server, wherein the network server accesses the data using a common gateway interface script executed on the network server. Appellant respectfully submits that dependent claim 3 is patentable because it depends from patentable claim 1 and further because the references fail to teach the additional limitations of the claim.

Claim 3 is further patentable because Appellant is unable to locate where Smith, Goode, or Blenheim teach a common gateway interface script. Appellant submits that the rejection of claim 3 amounts to a form of Official Notice that is unsupported by a reference and which was timely traversed under M.P.E.P. § 2144.03.

Reversal of the rejection and allowance of claim 3 are respectfully requested.

c) Claim 4

Claim 4 relates to a method in accordance with both claims 1 and 2 and further providing ability for accessing data stored in the database with a database server, wherein the network server communicates with the database server by executing a java applet that communicates with the database server over the network. Appellant respectfully submits that dependent claim 4 is patentable because it depends from patentable claim 1.

Appellant further submits that claim 4 is patentable because the references, neither alone nor in combination, teach executing a java applet that communicates with the database server over the network for providing ability for accessing data stored in the database with a database server. Blenheim does mention Java, but it fails to contemplate an applet. Further, as discussed above, Blenheim, and the combination of references, fails to provide enough information to teach the use of a java applet in such a fashion so as to provide a reasonable expectation of success.

Thus, because the combination of references fails to teach the additional limitations of claim 4, Appellant submits that the rejection of claim 4 amounts to a form

of Official Notice that is unsupported by a reference and was timely traversed under M.P.E.P. § 2144.03.

Reversal of the rejection and allowance of claim 4 are respectfully requested.

d) Claim 10

Claim 10 relates to a method of presenting a client representative a plurality of selected views of data items associated with accounts belonging to the client through a web browser. This claim is patentable because it depends from patentable claims 1 and 2.

Claim 10 is further patentable because Smith and Goode, neither alone nor in combination, contemplate a web browser application or a network, or components thereof such as a web server, for serving web pages. Claim 10 is further patentable because Blenheim fails, as discussed above, to provide enough technical information to make claim 10 obvious. Claim 10 is further patentable because it depends from patentable claim 1, and for the other reasons set forth above with regard to claim 1.

Appellant respectfully requests reversal of the rejection and allowance of claim 10.

e) Claim 15

Claim 15 relates to a method of presenting a selected view that includes a link to an online-ledger for each account represented in the selected view. This claim is patentable because it depends, directly or indirectly, from patentable claims 1 and 10 among other patentable claims. Claim 15 is further patentable because the references fail to even contemplate, alone or in combination, a ledger for each account represented in the selected view as set forth in the claim.

Thus, because the combination of references fails to teach the elements of claim 15, Appellant submits that the rejection of claim 15 amounts to a form of Official Notice that is unsupported by a reference and was timely traversed under M.P.E.P. § 2144.03.

Appellant respectfully requests reversal of the rejection and allowance of claim 15.

f) Claims 2, 5-9, 11-14, and 16-21

Claims 2, 5-9, 11-14, and 16-21 depend, directly or indirectly, on patentable claims 1, 3-4, 10, and 15, and are patentable over Smith in view of Goode and Blenheim for the reasons argued above, plus the elements in the claims. If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. MPEP § 2143.03. Thus, the elements of claim 2, 5-9, 11-14, and 16-21 not only provide independent grounds for patentability, but also provide for each claim standing and falling independently of the other claims.

For example, Smith, Goode, and Blenheim fail to disclose the method of claim 5 wherein the method provides for “the records thereby serving to group the data items into data entities, with each of such data entities being associated with a particular account.” Not only do the references fail to disclose grouping data items into data entities, the references further fail to provide accounts of a client of a collection agency for the data entities to be associated. Thus, claim 5 is patentable for the reasons argued above plus the failure of Smith, Goode, and Blenheim to provide the claim limitations.

A further example is claim 18. Claim 18 provides a method “allowing for differential client access to accounts owned by a client among representatives of the client in accordance with a management structure of the client.” Again, Smith, Goode, and Blenheim, alone and in combination, fail to describe such a method and also fail to describe accounts belonging to a client of a collection agency. Thus, claim 18 is patentable for the reason argued above plus the failure of Smith, Goode, and Blenheim to provide the claim limitations.

Further, Appellant submits that the rejection of claims 5-9, 11-14, and 16-21 amount to a form of Official Notice that is unsupported by a reference and was timely traversed under M.P.E.P. § 2144.03. Appellant respectfully submits that claims 5-9, 11-14, and 16-21 are patentable for at least the reasons provided for claims 1, 3-4, 10, and

15, from which claims 2, 5-9, 11-14, and 16-21 depend, and because the combination of references fail to teach all the elements of the claims.

Thus, Appellant respectfully submits that claims 2, 5-9, 11-14, and 16-21 are patentable because the claims depend from the patentable claims as argued above, plus the elements of the claims. Reversal of the rejections and allowance of claims 2, 5-9, 11-14, and 16-21 are respectfully requested.

9. SUMMARY

For the above reasons, claims 1-21 were not properly rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith in view of Goode and Blenheim.

It is respectfully submitted that the art cited does not render the claims obvious and that the claims are patentable over the cited art. Reversal of the rejections and allowance of the pending claims are respectfully requested.

Additionally, Appellant respectfully requests entry and acceptance of the amendment to claim 10.

Respectfully submitted,

KEVIN A. LAYNE

By his Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402

Date May 24, 2004

By


Timothy E. Bianchi
Reg. No. 39,610

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APPENDIX I

The Claims on Appeal

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1. (Previously Presented) A method for allowing selective access by a client of a collection agency to information from debt collection by the collection agency, comprising:
 - storing a plurality of account data items in a database, each data item being associated with an account belonging to the client of the collection agency, the plurality of data items including information relating to debt owed to the client by one or more debtors;
 - processing database access requests with a network server from a user process controlled by a remote user ;
 - processing credentials to authenticate the remote user as a client representative; and
 - processing data access requests in accordance with a defined access scheme such that the client representative can access only data items associated with an account belonging to that client to allow remote review and reporting of the account data items.
2. (Original) The method of claim 1, further comprising allowing access to data items in accordance with a defined access scheme providing for a plurality of access tiers such that the particular client representative is allowed access only to those client account data items allowed by the tier to which the client representative has been assigned.
3. (Previously Presented) The method of claim 2, further comprising accessing data stored in the database with a database server, wherein the network server communicates with the database server by a common gateway interface script executed by the network server.
4. (Previously Presented) The method of claim 2, further comprising accessing data stored in the database with a database server, wherein the network server communicates with the database server by executing a java applet that communicates with the database server over the network.

5. (Original) The method of claim 2 wherein the database contains one or more tables with each table containing one or more records with one or more defined data fields for storing data items therein according to type, the records thereby serving to group the data items into data entities, with each of such data entities being associated with a particular account.
6. (Original) The method of claim 5 wherein one of the stored data items is an account identifier that is related to each data item in the database to identify the account with which the data item is associated.
7. (Original) The method of claim 6 wherein one of the stored data items is a client identifier that is related to each account identifier to identify the client to which the account belongs.
8. (Original) The method of claim 7 further comprising restricting a particular client's data access to views of the data items that include the client identifier for that client.
9. (Original) The method of claim 5 further comprising restricting data access of particular client-representatives to selected views of the data items to which the client has data access.
10. (Amended) The method of claim 5 further comprising presenting to a client representative accessing the database through ~~the~~ a web browser, upon request, a plurality of selected views of data items associated with accounts belonging to the client.
11. (Original) The method of claim 5 wherein the data items include a debtor identifier and amount owed on an account.

12. (Original) The method of claim 10 wherein the particular data items related to an account and presented in a selected view are chosen from a group consisting of an account identifier, the name of a debtor on the account, a state in which the debtor is located, amounts paid on the account, amounts owing on the account, original amount due, account status, and a collector's notes on an account.
13. (Original) The method of claim 12 further comprising presenting a selected view that includes data items sorted according to a selected data item
14. (Original) The method of claim 13 further comprising presenting a selected view that includes data items sorted according to a selected data item chosen from a group consisting of a debtor name, a debtor identifier, the account identifier, state in which a debtor is located, account status, date on which an account was entered into the system, and by a range of amounts owed on an account.
15. (Original) The method of claim 12 further comprising presenting a selected view that includes a link to an online-ledger for each account represented in the selected view, wherein the online-ledger presents a plurality of data items associated with a single account.
16. (Original) The method of claim 12 further comprising allowing a client to insert comments into a designated record field in accordance with a particular access tier.
17. (Original) The method of claim 11 further comprising processing credentials transmitted by the user process to authenticate the identity of the user as an agency representative, and wherein the tiered access scheme includes an access tier for agency representatives that allows access to all data items contained in the database.
18. (Original) The method of claim 11 further comprising allowing for differential client access to accounts owned by a client among representatives of the client in accordance with a management structure of the client.

19. (Original) The method of claim 11 further comprising allowing a client representative to enter a new account into the system along with data items associated with that account in accordance with an access tier.

20. (Original) The method of claim 11 further comprising allowing a user process to query the database with relational expressions and be presented with data responsive to the query in accordance with the defined access scheme.

21. (Previously Presented) The method of claim 1, wherein the network is the Internet.